IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3427 OF 2005

Sameer Nawab Irani & Ors. ...Applicants

V/s

The State of Maharashtra ...Respondent

Shri. Amin H. Solkar for the Applicants.
Ms.Sangeeta Shinde A.P.P. for the Respondent.

CORAM : A.S. OKA, J.
DATED : JUNE 10, 2005.

P.C.:

1. Heard Shri. Solkar for the Applicants and learned A.P.P. for the State.

2. The Applicants have been arrested with two other persons in a case registered with Panvel Town Police Station for the offences punishable under sections 399 and 402 of the Indian Penal Code and 37(1), 135 of the Bombay Police Act, 1951. The allegation is that on 25th February, 2005 at about 12.45 hrs., police received secret information from the informer that some persons are coming by auto rickshaw to commit dacoity in Bank of India, Panvel branch. The case is that a trap was arranged and the Applicants were nabbed on the spot and two other persons absconded.

The allegation of the prosecution is that the police recovered iron choper and knife from the Applicants when personal search of the Applicants was taken.

3. The learned Sessions Judge rejected the application for bail filed by the Applicants. Shri. Solkar appearing for the Applicants contended that the learned Judge has not considered the application on merits. He submitted that there are no statements of independent witnesses. Moreover, he submitted that the Applicants are permanent residents of district Kalyan. His contention is that the articles which were allegedly recovered in the personal search were planted by the police. He has placed reliance on decision of the Supreme Court reported in AIR 1979 Supreme Court 1412, Chaturi Yadav and Others Vs. State of Bihar. The learned A.P.P. has placed reliance on various documents filed alongwith the chargesheet and submitted that if the Applicants are enlarged on bail, they may try to tamper with the evidence.

4. I have considered the submissions. The case of the prosecution is that on the basis of the secret information a trap was arranged and the Applicants were caught on the spot. On personal search there is

a recovery of chopper and knife. A cell phone of Nokia make was also recovered. Recovery of cell phone is relevant as the Applicants are claiming to be poor hawkers from Kalyan. Two other accused ran away when the Applicants were nabbed.

5. Considering the gravity of offences and seriousness of the allegations against the Applicant as well as the material placed under section 173 of the Code of Criminal Procedure, 1973 this is not a fit case where the Applicants can be enlarged on bail.

6. Hence, the application is rejected. Considering the facts and circumstances of the case, if Fast Track Court is available in District Raigad, learned Sessions Judge will transfer the case to the Fast Track Court so that it can be heard expeditiously.

JUDGE